

रजिस्टर्ड नॉ ३० ४६१



राजपत्र, हिमाचल प्रदेश

(असाधारण)

हिमाचल प्रदेश राज्यशासन द्वारा प्रकाशित

शिमला, शनिवार, 28 जुलाई, 1973/6 भावण, 1895

GOVERNMENT OF HIMACHAL PRADESH

LAW DEPARTMENT

NOTIFICATIONS

Simla-2, the 24th July, 1973

No. 5-31/72-LR.—The Himachal Pradesh Ceiling on Land Holdings Bill, 1972, (Bill No. 31 of 1972) after having received

1202 असाधारण राजपत्र, हिमाचल प्रदेश, 28 जुलाई, 1973/6 श्रावण, 1895

the assent of the President of India on the 10th July, 1973, is hereby published in the Rajpatra, Himachal Pradesh as Act No. 19 of 1973.

JOSEPH DINA NATH,
Deputy Secretary.

THE HIMACHAL PRADESH CEILING ON LAND HOLDINGS ACT, 1972

Act No. 19 of 1973

**AN
ACT**

to consolidate and amend the laws relating to ceiling on land holdings in the State of Himachal Pradesh.

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Twenty-third Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Himachal Pradesh Ceiling on Land Holdings Act, 1972.
 (2) It extends to the whole of Himachal Pradesh.
 (3) It shall come into force at once.

Short title,
extent and
commencement.

2. It is hereby declared that this Act is for giving effect to the policy of the State towards securing the principles specified in clauses (b) and (c) of Article 39 of the Constitution of India.

Declaration
as to giving
effect to cer-
tain directive
principles of
State policy.

3. In this Act, unless there is anything repugnant in the subject or context,—

Definitions

(a) “adult” means a person who is not a minor;
 (b) “appointed day” means the 24th day of January, 1971;
 (c) “banjar land” means land which has remained uncultivated for a continuous period of not less than two years immediately preceding the appointed day and includes culturable waste land recorded as banjar in the revenue records;
 (d) “Collector” means the Collector of a District or any other officer not below the rank of an Assistant Collector of the First Grade empowered in this behalf by the State Government;
 (e) “family” means husband, wife and their minor children or any one or more of them;
 (f) “land” means land which is not occupied as the site of any building in a town or village and is occupied or has been let for agricultural purposes or for purposes subservient to agriculture, or for pasture and includes—
 (i) the sites of buildings and other structures on such land;
 (ii) orchards;
 (iii) ghasnies;
 (iv) banjar land; and
 (v) private forests;
 (g) “landowner” means a person defined as such in the

Himachal Pradesh Land Revenue Act, 1954 or the Punjab Land Revenue Act, 1887, as the case may be, and shall include the predecessor or successor in interest of the landowner;

- (h) "landless person" means a person who, holding no land for agricultural purposes, whether as an owner or a tenant, earns his livelihood principally by manual labour on land and intends to take the profession of agriculture and is capable of cultivating the land personally;
- (i) "land revenue" means land revenue assessed under any law for the time being in force or assessable under the Himachal Pradesh Land Revenue Act, 1954 or the Punjab Land Revenue Act, 1887, as the case may be;
- (j) "minor" means a person who has not completed the age of eighteen years;
- (k) "orchard" means a compact area of land having fruit bearing trees grown thereon in such number that they preclude, or when fully grown would preclude, a substantial part of such land from being used for any agricultural purpose;
- (l) the expression "to cultivate personally" with its grammatical variations and cognate expression means,—
 - (i) by one's own account;
 - (ii) by one's own labour;
 - (iii) by the labour of any member of one's family; or
 - (iv) under the personal supervision of oneself or any member of one's family by hired labour or by servant on wages payable in cash;
- (m) "permissible area" means the extent of land specified in section 4 of this Act;
- (n) "person" means the landowner and tenant and includes a company, a family, an association or other body of individuals, whether incorporated or not, and any institution capable of holding property;
- (o) "prescribed" means prescribed by rules made under this Act;
- (p) "private forest" means a forest which is not the property of the Government or over which the State has no proprietary rights or to the whole or any part of the forest produce of which the State is not entitled;
- (q) "separate unit" means an adult son or in case of his death, his widow and children, if any, and an adult daughter;
- (r) "surplus area" means the area in excess of the permissible area;
- (s) "tea estate" means an area under tea plantation and includes such other area necessary for purposes subservient to tea plantation as may be prescribed;
- (t) "tenant" means a person who holds land under a landowner, and is, or but for a contract to the contrary would be liable to pay rent for that land to that landowner, and includes—

- (i) a sub-tenant recorded as such in the revenue records; and
- (ii) the predecessors or successors in interest of a tenant or a sub-tenant, as the case may be, but it does not include—
 - (a) a mortgagee of the rights of landowner; or
 - (b) a person to whom a holding has been transferred or an estate or holding has been let in farm under the Himachal Pradesh Land Revenue Act, 1954 or the Punjab Land Revenue Act, 1887, as the case may be, for the recovery of an arrear of land revenue or of a sum recoverable as such an arrear; or
 - (c) a person who takes from the State Government a lease of unoccupied land for the purpose of subletting it;
- (u) "tenancy" means a parcel of land held by a tenant of a landowner under one lease or one set of conditions; and
- (v) the words and expressions used herein but not defined in this Act shall have the meanings assigned to them in the Himachal Pradesh Land Revenue Act, 1954, or the Punjab Land Revenue Act, 1887, as the case may be.

CHAPTER II

CEILING ON LAND HOLDINGS, ACQUISITION AND DISPOSAL OF SURPLUS AREA

4. (1) The permissible area of a landowner or a tenant or a mortgagee with possession or partly in one capacity or partly in another of a person or a family consisting of husband, wife and upto three minor children shall be in respect of— Permissible area.

- (a) land under assured irrigation capable of growing two crops in a year—10 acres.
- (b) land under assured irrigation capable of growing one crop in a year—15 acres.
- (b) land of classes other than described in clauses (a) and (b) above including land under orchards—30 acres.

(2) The permissible area for the purposes of clause (c) of sub-section (1) for the districts of Kinnaur and Lahaul and Spiti, Tehsil Pangi and Sub-Tehsil Bharmaur and Chamba district, areas of Chhota Bhangal and Bara Bhangal of Baijnath Kanungo Circle of Tehsil Palampur of Kangra district, and area of Dodra Kuwar Patwar Circle of Rohru Tehsil and Pandrabis Pargana of Rampur Tehsil of Simla district shall be 70 acres.

(3) The permissible area of a family under sub-section (1) shall be increased by one-fifth of the permissible area under sub-sections (1) and (2) for each additional minor member of a family subject to the condition that the aggregate permissible area shall not exceed twice the permissible area of a family under sub-sections (1) and (2).

(4) Every adult son or daughter of a landowner shall be treated as a separate unit and he shall be entitled to the land upto the extent permissible to a family under sub-sections (1)

and (2) subject to the condition that the aggregate land of the family and that of the separate units put together shall not exceed twice the area permissible under the said sub-sections:

Provided that where the separate unit owns any land, the same shall be taken into account for calculating the permissible area for that unit.

(5) If a person holds land of two or more categories described in clauses (a), (b) and (c) of sub-section (1) and sub-section (2) of this section, then the permissible area shall be determined on the basis of valuation to be calculated in a manner which will be prescribed taking into consideration the kind of soil, subject to the condition that the total area does not exceed in case of sub-section (1) —30 acres and in case of sub-section (2) —70 acres.

(6) Where a person is a member of the family, the land held by such person together with the land held by all the members of the family shall be taken into account for the purpose of calculating the permissible area.

Exemptions

5. The provisions of this Act shall not apply to—

- (a) lands owned by the State Government or the Central Government;
- (b) lands belonging to registered Co-operative Farming Societies:

Provided that the share of a member of such society, together with his other land, if any, does not exceed the permissible area;

- (c) lands belonging to Primary Agricultural Co-operative Credit Societies, Land Mortgage Banks, the State and Central Co-operative Banks and other Nationalised Banks;
- (d) lands belonging to or vested in local authorities;
- (e) lands belonging to Himachal Pradesh Agriculture University;
- (f) lands owned by the Bhudan Yagna Board established under the law in force in the State of Himachal Pradesh; and
- (g) tea estates.

Ceiling on land.

6. Notwithstanding anything to the contrary contained in any law, custom, usage or agreement, no person shall be entitled to hold whether as a landowner or a tenant or a mortgagee with possession or partly in one capacity and partly in another, the land within the State of Himachal Pradesh exceeding the permissible area on or after the appointed day.

Certain transfers not to affect the surplus area.

7. (1) Except in the case of land acquired by the Union Government or the State Government under any law for the time being in force or by a tenant under the Pepsu Tenancy and Agricultural Lands Act, 1955 or the Punjab Security of Land Tenures Act, 1953 or the Himachal Pradesh Abolition of Big Landed Estates and Land Reforms Act, 1953, no transfer by a person holding land in excess of the permissible area except a bona fide transfer after the appointed day shall affect the right

of the State Government to the surplus area to which it would be entitled but for such transfers.

(2) The Collector shall determine whether a transfer is bonafide or not and his decision shall be final:

Provided that the burden of proving the transfer to be bona fide one shall be on the transferer:

Provided further that if a person transfers any land in contravention of the provisions of this section, in case of vestment in the State, the land left with him after such transfer will be taken into account first and the transferred land will be taken into account only for making up of deficiency of land to be vested.

8. (1) Every person, who on the appointed day or at any time thereafter holds the land exceeding the permissible area shall furnish to the Collector particulars of all his lands and that of the separate unit within a prescribed period and in the prescribed form and manner and stating therein the selection of land not exceeding in the aggregate the permissible area which he desires to retain:

Provided that such person shall state in the return any transfer or other disposition of land made by him after the appointed day.

(2) If the whole or a part of the land selected under sub-section (1) is under tenants, the landowner shall not be entitled to eject the tenants therefrom except on the grounds given in the tenancy laws for the time being in force in the State of Himachal Pradesh.

Explanation I.—Where the person is a member of the family, he shall include in his declaration particulars of land held by him and also of land, if any, held by other members of the family.

Explanation II.—In calculating the extent of land owned or held by a person, the share of such person in undivided family, registered farming co-operative society or a company shall be taken into account.

(3) In making a selection of his permissible area under sub-section (1), the landowner may also select land for a separate unit:

Provided that the land selected for the separate unit, after adding the land owned on or after the appointed day by such unit, shall not exceed the permissible area.

9. (1) Every person required to furnish a return under section 8 whose land is situated in more than one patwar circle shall furnish to the Collector within a prescribed period a declaration supported by an affidavit in respect of the land owned or held by him in such form and manner as may be prescribed.

(2) If a person fails to select the permissible area in accordance with the provision of section 8, the Collector may after collecting the information in such manner as he may deem fit, by order select the permissible area of such person:

Provided that no such order shall be made without giving the person concerned an opportunity of being heard.

Selection of permissible area.

Declaration supported by affidavits to be furnished by certain landowners and tenants.

Submission
of statement
to Collector.

10. (1) On the basis of the information given in the return under section 8 or the declaration furnished under sub-section(1) of section 9 which shall be duly verified through such agency as may be prescribed or the information obtained by the Collector under sub-section (2) of section 9, the Collector shall prepare a draft statement in the manner prescribed showing among other particulars the total area of land owned or held by such a person the specific parcels of land which a person may retain by way of permissible area or exemption from ceiling and also the surplus area.

(2) The draft statement shall be published in the office of the Collector and a copy thereof shall be served upon the person or persons concerned in the form and manner prescribed. Any objection received within 30 days of the service shall be duly considered by the Collector and after affording the objectors an opportunity of being heard, the Collector shall pass such order as he may deem fit.

(3) A draft statement shall be made final in terms of the order of the Collector or the order, if any, passed in appeal, revision or review, as the case may be.

Vesting of
surplus area
in the State
Government.

11. The surplus area of a person shall, on the date on which possession thereof is taken by or on behalf of the State Government be deemed to have been acquired by the State Government for a public purpose on payment of amount hereafter provided and all rights, title, and interests (including the contingent interest, if any,) recognised by any law, custom or usage for the time being in force, of all persons in such area shall stand extinguished and such rights, title and interests shall vest in the State Government free from any encumbrance:

Provided that where any land within the permissible area of the mortgagor is mortgaged with possession and falls within the surplus area of the mortgagee, only the mortgagee rights shall be deemed to have been acquired by the State Government and the same shall vest in it.

Power to
take posses-
sion of sur-
plus area.

12. (1) The Collector may, by order in writing, at any time after an area becomes surplus, direct the person in possession of such area or deliver possession thereof within ten days of the service of the order on him to such person as may be specified in the order.

(2) If the person in possession of surplus area refuses or fails without reasonable cause to comply with the order made under sub-section (1), the Collector may take possession of the surplus area and may for that purpose use such force as may be necessary.

Power to
separate sha-
res of land-
owners.

13. (1) Where a landowner owns land jointly with other landowners and his share of such land or part thereof has been, or is to be, declared as surplus area, the officer competent to declare such area, or where such area has been declared, the officer, competent to utilize it, may on his own motion, after summary enquiry and affording to the persons interested in such land an opportunity of being heard, separate his share of such land or

part thereof in the land owned by him jointly with other land-owners.

(2) Where, after the declaration of the surplus area of any person and before the utilization thereof, his land has been subjected to the process of consolidation, the officers referred to in sub-section (1) shall be competent to separate the surplus area of such person out of the area of land obtained by him after consolidation.

14. (1) Where any surplus area has vested in the State Government under section 11, the Collector shall determine the amount payable therefor in accordance with the principles hereinafter set out, that is to say—

- (i) for the land upto ten acres, ninety-five times the land revenue (including rates and cesses);
- (ii) for the land from eleven acres to thirty acres, seventy-five times the land revenue (including rates and cesses); and
- (iii) for the remaining land, forty-five times the land revenue (including rates and cesses); payable for such land :

Provided that if the holding or part thereof comprising surplus area is not assessed to land revenue the land revenue on such land shall be construed to be assessed as on similar land in the estate and if not available in the estate then the adjoining estate or estates, as the case may be:

Provided further that the waste land shall be treated as banjar land for the purpose of assessment of land revenue and determination of an amount.

(2) For the purpose of sub-section (1), the Collector shall prepare a statement of the amount in such form and manner as may be prescribed and shall after following the prescribed procedure apportion the amount amongst the persons having interests in the land.

(3) Wherein the surplus area of any person mortgagee rights have vested in the State Government, the amount payable to the mortgagee shall be mortgage money due to the mortgagee, or the amount payable under this section, whichever is less.

(4) Where on the land there is any building, structure or tube-well or crop, the owner thereof shall, in addition to the amount payable in respect of the land, be entitled to be paid by the State Government an amount therefor which shall be 50% of the market price of such building, structure, tube-well. The land-owner shall be entitled to harvest the crop standing on the surplus area.

(5) The amount shall be payable either in lump sum or in six monthly instalments not exceeding ten in the manner prescribed.

15. (1) The surplus area which has vested in the State Government under section 11 shall be at the disposal of the State Government.

(2) The State Government may, by notification in the Official Gazette, frame a scheme for utilising the surplus area vested in

Principle
for determina-
tion and
payment of
amount.

Disposal of
surplus area.

the State Government by allotment to a landless person, a person whose holding is less than one acre, to make his holding one acre. The allottee shall pay amount—

- (i) for the land allotted to him at the rate of ninety-five times the land revenue and rates and cesses, thereof;
- (ii) for building, structure or tube-well, if any, at 50% of the market price of such building, structure or tube-well:

Provided that if the holding or part thereof comprising surplus area is not assessed to land revenue, the land revenue on such land shall be construed to be assessed as on similar land in the estate and if not available in the estate then on the adjoining estate or estates, as the case may be:

Provided further that the waste land shall be treated as banjar land for the purpose of assessment of land revenue and determination of amount.

(3) Any scheme framed by the State Government under sub-section (2) may provide for the terms and conditions on which the land comprised in surplus area is to be allotted.

(4) The State Government may, by notification in the Official Gazette, add to amend, vary or revoke any scheme made under this section.

Bar of future acquisition of land in excess of permissible area.

16. Notwithstanding anything to the contrary in any law, custom, usage, contract or agreement, from and after the commencement of this Act, no person whether as landowner or tenant or a mortgagee with possession shall acquire or possess by transfer, exchange, mortgage, lease, agreement or settlement any land, which with or without the land already owned or held by him, shall in the aggregate exceed the permissible area.

Future acquisition of land by inheritance or otherwise in excess of permissible area or increase in such area as a result of operation of this Act.

17. (1) Subject to the provisions of section 15, if after the commencement of this Act, any person, whether as landowner or tenant, acquires by inheritance or by bequest or gift from a person to whom he is an heir any land, any person has acquired by transfer, exchange, lease, agreement or settlement any land, or if, after such commencement, any person acquires in any other manner any land, which, with or without the lands already owned or held by him, exceeds in the aggregate the permissible area or any person whose land exceeds the permissible area as a result of the operation of any provision of this Act, then he shall, within the period prescribed, furnish to the Collector, a return in the prescribed form and manner giving the particulars of all lands and selecting the land not exceeding in the aggregate the permissible area which he desires to retain, and if the land of such person is situate in more than one patwar circle, he shall also furnish a declaration required by section 9.

(2) If he fails to furnish the return and select his land within the prescribed period, then the Collector may in respect of him obtain the information required to be shown in the return through such agency as he may deem fit and select the land for him in the manner specified in sub-section (1) of section 8.

(3) If such person fails to furnish the declaration, the provisions of section 8 shall apply.

(4) The excess land of such person shall be at the disposal of the State Government for utilisation as surplus area under section 15 or for such other purpose as the State Government may by notification direct.

Explanation.—In the case of family, the return may be furnished by any adult member, of the family and in the case of the sole minor by his guardian:

Provided that the Collector shall, before determining the surplus area, give to all the members of the family an opportunity of being heard.

18. (1) No civil court shall have jurisdiction to—

(a) entertain or proceed with a suit for specific performance of a contract for transfer of land which affects the rights of the State Government to the surplus area under this Act; or
 (b) settle, decide or deal with any matter which is under this Act required to be settled, decided or dealt with by the financial Commissioner, the Commissioner, the Collector.

Bar of jurisdiction.

(2) No order or the Financial Commissioner, the Commissioner, the Collector made under or in pursuance of this Act, shall be called in question in any court.

19. The amount of other sum payable under this Act and the amount of any penalty imposed under this Act may be recovered as an arrear of land revenue.

Mode of recovery of amount and penalty.

20. (1) Any person aggrieved by any decision or order of the Collector may within sixty days from the date of the decision or order prefer an appeal to the Commissioner:

Appeal, review and revision.

Provided that the Commissioner may entertain the appeal after the expiry of the said period of sixty days if he is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) Any person aggrieved by an order of the Commissioner made under sub-section (1), may, within ninety days from the date of the order, file a revision petition before the Financial Commissioner so as to challenge the legality or propriety of such order and the Financial Commissioner may pass such order as he may deem fit. The order of the Financial Commissioner shall be final.

(3) Notwithstanding anything contained in the foregoing sub-sections, the Financial Commissioner may at any time call for the record of any proceedings or order of any authority subordinate to him for the purpose of satisfying himself as to the legality or propriety of such proceedings or order, and may pass such order in relation thereto as he may deem fit.

Officers holding enquiries to have powers of civil courts.

21. Any officer or authority holding an enquiry or hearing an appeal or a revision under this Chapter shall have the powers of a civil court under the Code of Civil Procedure, 1908, relating to—

- (a) proof of facts by affidavits ;
- (b) enforcing attendance of any person and his examination on oath;
- (c) production of documents;
- (d) issue of commission;

and every such officer or authority shall be deemed to be a civil court within the meaning of sections 480 and 482 of the Code of Criminal Procedure, 1898.

Penalty for making false statement.

22. (1) If any person fails to furnish a declaration as required by section 9 or during the course of any proceeding under this Chapter makes a declaration or statement or furnishes any information which is false or which he knows or has reasons to believe to be false or which he does not believe to be true, he shall be punishable with imprisonment which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

(2) No court shall take cognizance of an offence punishable under sub-section (1) except on a complaint made by the Collector.

Procedure

23. In all enquiries and proceedings under this Act, the Collector and any other officer shall have such powers and follow such procedure as may be prescribed.

Certain officers to be public servants.

24. Every officer acting under or in pursuance of the provisions of this Act or any rules made thereunder shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

Protection of action taken under this Act.

25. (1) No suit, prosecution or other legal proceeding shall lie against any person in respect of anything which is in good faith done or intended to be done under or in pursuance of this Act or any rules made thereunder.

(2) No suit or other legal proceeding shall lie against the State Government for any damage caused or likely to be caused or any injury suffered or likely to be suffered by virtue of any provisions contained in this Act or any rules made thereunder.

Power to make rules.

26. (1) The State Government may, by notification, make rules for carrying out the purposes of this Act.

(2) The power to make any rule under sub-section (1) is subject to the condition of the rules being made after previous publication.

(3) Every rule made under this Act shall be laid as soon as may be after it is made before the State Legislature while it is in Session for a total period of ten days which may be comprised in

one Session or two successive Sessions, and if before the expiry of the Session in which it is so laid or the Session immediately following, the Legislature requires may modification in the rule or desires that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

27. If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by order published in the Official Gazette, make such provisions or give such directions not inconsistent with the provisions of this Act, as may appear to it to be necessary or expedient for the removal of the difficulty.

Power to remove difficulties.

3 28. (1) The provisions of the Punjab Security of Land
5 Tenures Act, 1953 and the Pepsu Tenancy and Agricultural
4 Lands Act, 1955 and the Himachal Pradesh Abolition of Big
Landed Estates and Land Reforms Act, 1953, which are inconsistent with the provisions of this Act are hereby repealed.

Repeal and saving.

(2) The repeal of the enactments referred to in sub-section (1) shall not affect their previous operation.

(3) Subject to the provisions of sub-section (2), anything done or any action taken including any appointment, delegation or transfer made, notification, proclamation, order, instruction or direction issued, authorities and powers conferred, rights acquired and liabilities incurred, rule, regulation, form or scheme framed, date, time and place appointed and other things done under the repealed Acts or law shall—

- (a) be deemed to have been done or taken under the corresponding provisions, if any, of this Act;
- (b) continue in force unless and until directed otherwise or superseded by anything done or any action taken under this Act by the State Government or by other competent authority.

(4) Notwithstanding the repeal of the enactments mentioned in sub-section (1) all suits, applications or other proceedings pending disposal at the commencement of this Act, shall be disposed of in accordance with the provisions of the said Acts as if these Acts had not been repealed.

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Simla-2, the 25th July, 1973

No. 6-27/69-LR.—The Himachal Pradesh Requisitioning and Acquisition of Immovable Property Bill, 1972 (Bill No. 25 of 1972) after having received the assent of the President of India on the 13th July, 1973, is hereby published in the *Rajpatra*, Himachal Pradesh as Act No. 20 of 1973.

JOSEPH DINA NATH,
Deputy Secretary.

THE HIMACHAL PRADESH REQUISITIONING AND ACQUISITION OF IMMOVABLE PROPERTY

ACT, 1972

(ACT NO. 20 OF 1973)

AN

ACT

to provide for the requisitioning and acquisition of immovable property for the purposes of the State.

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Twenty-third Year of the Republic of India as follows:—

1. (1) This Act may be called the Himachal Pradesh Requisitioning and Acquisition of Immovable Property Act, 1972.

Short title,
extent and
duration.

(2) It extends to the whole of Himachal Pradesh.

(3) It shall remain in force for a period of five years from the date of the commencement of this Act.

2. In this Act, unless the context otherwise requires,—

Definitions

(a) "award" means any award of an arbitrator made under section 10;

(b) "competent authority" means any person or authority authorised by the Government, by notification in the Official Gazette to perform the functions of the competent authority under this Act for such area as may be specified in the notification;

(c) "Government" means the Government of Himachal Pradesh;

(d) "landlord" means any person who for the time being is receiving or is entitled to receive, the rent of any premises, whether on his own account, or on account or on behalf or for the benefit, of any other person or as a trustee, guardian or receiver for any other person, or who would so receive the rent or be entitled to receive the rent if the premises were let to a tenant;

(e) "Official Gazette" means the Rajpatra, Himachal Pradesh;

(f) the expression "person interested" in relation to any property includes all persons claiming or entitled to claim, an interest in the compensation payable on account of the requisitioning or acquisition of that property under this Act;

(g) "premises" means any building or part of a building and includes—

(i) the garden, grounds and out-houses, if any, appertaining to such building or part of a building;

(ii) any fittings affixed to such building or part of a building for the more beneficial enjoyment thereof;

- (h) "prescribed" means prescribed by rules made under this Act;
- (i) "property" means immovable property of every kind and includes any rights in or over such property; and
- (j) "tenant" means any person by whom or on whose account rent is payable for any premises and includes such sub-tenants and other persons as have derived title under the tenant under any law for the time being in force.

Power to
requisition
immovable
property.

3. (1) Where the competent authority is of the opinion that any property is needed or likely to be needed for any public purpose, being a purpose of the State, and that the property should be requisitioned, the competent authority,—

- (a) shall call upon the owner or any other person who may be in possession of the property by notice in writing (specifying therein the purpose of the requisition) to show cause, within fifteen days of the date of the service of such notice on him, why the property should not be requisitioned; and
- (b) may, by order, direct that neither the owner of the property nor any other person shall, without permission of the competent authority dispose of, or structurally alter, the property or let it out to a tenant until the expiry of such period, not exceeding two months, as may be specified in the order.

(2) If, after considering the cause, if any, shown by any person interested in the property, or in possession thereof, the competent authority is satisfied that it is necessary or expedient so to do, it may, by order in writing, requisition the property and may make such further orders as appear to it to be necessary or expedient in connection with the requisitioning:

Provided that no property or part thereof—

- (a) which is bona fide used by the owner thereof as the residence of himself or his family, or
- (b) which is exclusively used either for religious worship by the public or as a school, hospital, public library or an orphanage or for the purpose of accommodation of persons connected with the management of such place of worship or such school, hospital, library or orphanage,

shall be requisitioned:

Provided further that where the requisitioned property consists of premises which are being used as a residence by a tenant for not less than two months immediately preceding the date of the service of notice under sub-section (1), possession of the property shall not be taken unless the competent authority has provided such tenant with alternative accommodation which in its opinion is suitable.

4. (1) Where any property has been requisitioned under section 3, the competent authority may, by notice in writing, order the owner as well as any other person whom may be in possession of the property to surrender or deliver possession thereof to the competent authority or any person duly authorised by it in this behalf within thirty days of the service of the notice.

Power to take possession of requisitioned property.

(2) If any person refuses or fails to comply with an order made under sub-section (1), the competent authority may take possession of the property and may, for that purpose, use such force as may be necessary.

5. (1) All property requisitioned under section 3 shall be used for such purposes as may be mentioned in the notice of requisition.

Right over requisitioned property.

(2) Where any premises are requisitioned under section 3, the competent authority may order the landlord to execute such repairs as may be necessary and are usually made by landlords in that locality and as may be specified in the notice, within such reasonable time as may be mentioned therein and if the landlord fails to execute any repairs in pursuance of such order, the competent authority may cause the repairs specified in the order to be executed at the expense of the landlord and the cost thereof may, without prejudice to any other mode of recovery be deducted from the compensation payable to the landlord.

6. (1) The competent authority may at any time release from the requisition any property requisitioned under this Act and shall, as far as possible, restore the property in as good a condition as it was when possession thereof was taken subject only to the changes caused by reasonable wear and tear and irresistible force:

Release from requisitioning.

Provided that where the purposes for which any requisitioned property was being used cease to exist, the competent authority shall, unless property is acquired under section 9, release that property, as soon as may be from requisition.

(2) Where any property is to be released from requisition, the competent authority may, after such inquiry, if any, as it may in any case consider necessary to make or cause to be made, specify by order in writing the person to whom possession of the property shall be given and such possession shall, as far as practicable, be given to the person from whom possession was taken at the time of the requisition or to the successors-in-interest of such person.

(3) The delivery of possession of the property to the person specified in an order under sub-section (2) shall be a full discharge of the Government from all liability in respect of the property, but shall not prejudice any rights in respect of the property which any other person may be entitled by due process of law to enforce against the person to whom possession of the property is given.

(4) Where any person to whom possession of any requisitioned property is to be given is not found and has no agent or other

person empowered to accept delivery on his behalf, the competent authority, shall cause a notice declaring that the property is released from requisition to be affixed on some conspicuous part of the property and shall also publish the notice in the Official Gazette.

(5) When a notice referred to in sub-section (4) is published in the Official Gazette, the property specified in such notice shall cease to be subject to requisition on and from the date of such publication and shall be deemed to have been delivered to the person entitled to possession thereof and the Government shall not be liable for any compensation or other claim in respect of the property for any period after the said date.

(6) Where any property requisitioned under this Act or any material part thereof is wholly destroyed or rendered substantially and permanently unfit for the purpose for which it was requisitioned by reason of fire, earthquake, tempest, flood, or violence of an army or of a mob or other irresistible force, the requisition shall, at the option of the Government be void:

Provided that the benefit of this sub-section shall not be available to the Government where the injury to such property is caused by any wrongful act or default of that Government.

Application
for release
from requisitioning.

7. (1) After a period of two years from the date of requisitioning of any property, the owner or any person interested in such property, may apply to the competent authority to release it from requisition:

Provided that such application may be made before the expiry of two years from the date of requisitioning of the property, if there have arisen circumstances which the owner or any person interested in the property could not have urged when given an opportunity to show cause under clause (a) of sub-section (1) of section 3.

(2) On receipt of an application under sub-section (1) the competent authority may, after calling for such information as may be found necessary from the owner or any person interested in the property or making such further inquiry as it may consider necessary, pass such orders as it deems fit.

Further applica-
tion for
release from
requisition-
ing.

8. After the application for release from requisition made under section 7 has been rejected by the competent authority and the appeal filed before the Government under section 13 has also been rejected, no further application for the release from requisition of property in question will be entertained by the competent authority till the expiry of a further period of two years:

Provided that another application may be made by the owner or any person interested in the property within two years of rejection of the first appeal if any further circumstances have arisen which he could have not urged in his previous application.

9. (1) Where any property is subject to requisition the Government may, if it is of opinion that it is necessary to acquire the property for a public purpose, at any time acquire such property by publishing in the Official Gazette a notice to the effect that the Government had decided to acquire the property in pursuance of this section:

Power to acquire requisitioned property.

Provided that before issuing such notice the Government shall call upon the owner of, or any other person who, in the opinion of the Government may be interested in, such property to show cause why the property should not be acquired; and after considering the cause, if any, shown by any person interested in the property and after giving the parties an opportunity of being heard, the Government may pass such orders as it deems fit.

(2) When a notice as aforesaid is published in the Official Gazette, the requisitioned property shall, on and from the beginning of the day on which the notice is so published, vest absolutely in the Government free from all encumbrances and the period of requisition of such property shall end.

(3) No property shall be acquired under this section except in the following circumstances, namely:—

(a) where any works have, during the period of requisition, been constructed on, in or over, the property wholly or partially at the expense of the Government and the Government decides that the value of, or the right to use, such works should be secured or preserved for the purposes of State; or

(b) where the cost of restoring the property to its condition at the time of its requisition would, in the determination of the Government, be excessive and the owner declines to accept release from requisition of the property without payment of compensation for so restoring the property.

(4) Any decision or determination of the Government under sub-section (3) shall be final and shall not be called in question in any court.

(5) For the purposes of clause (a) of sub-section (3) "works" includes buildings, structures and improvements of every description.

10. (1) Where any property is requisitioned or acquired under this Act, there shall be paid compensation the amount of which shall be determined in the manner and in accordance with the principles hereinafter set out, that is to say—

Principles and methods of determining compensation.

(a) where the amount of compensation can be fixed by agreement, it shall be paid in accordance with such agreement;

(b) where no such agreement can be reached, the Government shall appoint as arbitrator a person, who is, or has been, or is qualified for appointment as a Judge of a High Court;

(c) the Government may, in any particular case, nominate a person having expert knowledge as to the nature of the property requisitioned or acquired to assist

the arbitrator and where such nomination is made, the person to be compensated may also nominate an assessor for the same purpose;

- (d) at the commencement of the proceedings before the arbitrator, the Government and the person to be compensated shall state what in their respective opinion is a fair amount of compensation;
- (e) the arbitrator shall, after hearing the dispute, make an award determining the amount of compensation which appears to him to be just and specify the person or persons to whom such compensation shall be paid; and in making the award, he shall have regard to the circumstances of each case and the provisions of sub-sections (2) and (3), so far as they are applicable;
- (f) where there is any dispute as to the person or persons who are entitled to the compensation, the arbitrator shall decide such dispute and if the arbitrator finds that more persons than one are entitled to compensation, he shall apportion the amount thereof amongst such persons;
- (g) nothing in the Arbitration Act, 1940, shall apply to arbitrations under this section.

(2) The amount of compensation for the requisitioning of any property shall consist of—

- (a) a recurring payment, in respect of the period of requisition of a sum equal to the rent which would have been payable for the use and occupation of the property, if it had been taken on lease for that period; and
- (b) such sum or sums, if any, as may be found necessary to compensate the person interested for all or any of the following matters, namely:—
 - (i) pecuniary loss due to requisitioning;
 - (ii) expenses on account of vacating the requisitioned premises;
 - (iii) expenses on account of re-occupying the premises upon release from requisition; and
 - (iv) damages (other than normal wear and tear) caused to the property during the period of requisition, including the expenses that may have to be incurred for restoring the property to the condition in which it was at the time of requisition.

(3) The compensation payable for the acquisition of any property under section 9 shall be the price which the requisitioned property would have fetched in the open market, if it had been sold on the date of requisition.

(4) Where there are several persons interested in the compensation, it shall be lawful for the Government, either on its own motion or on an application from any person interested, to appoint the same or any other arbitrator to make an award or supplementary award in respect of the dispute.

11. The amount of compensation payable under an award shall, subject to any rules made under this Act, be paid or given by the competent authority to the person or persons entitled thereto in such manner and within such time as may be specified in the award.

Payment of compensation.

12. (1) Any person aggrieved by an order of requisition made by the competent authority under sub-section (2) of section 3 may, within twenty-one days from the date of service of the order, prefer an appeal to the Government:

Appeals from orders of requisitioning.

Provided that the Government may entertain the appeal after the expiry of the said period of twenty-one days if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) On receipt of an appeal under sub-section (1), the Government may, after calling for a report from the competent authority and giving an opportunity to the parties of being heard and after making such further inquiry, if any, as may be necessary, pass such orders as it thinks fit and the order of the Government shall be final.

(3) Where an appeal is preferred under sub-section (1), the Government may stay the enforcement of the order of the competent authority for such period and on such conditions as it thinks fit.

13. (1) Any person aggrieved by an order made by the competent authority under sections 7 and 8 may, within twenty-one days from the date of service of the order, prefer an appeal to the Government:

Appeals from order of competent authority rejecting application for release from requisitioning.

Provided that the Government may entertain the appeal after the expiry of the said period of twenty-one days, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) On receipt of an appeal under sub-section (1) the Government may, after calling for a report from the competent authority and after making such further inquiry as it may consider necessary, pass such orders as it deems fit and the orders of the Government shall be final.

14. Any person aggrieved by an award of the arbitrator made under section 10 may, within thirty days from the date of such award, prefer an appeal to the High Court within whose jurisdiction the requisitioned or acquired property is situate:

Appeals from awards in respect of compensation.

Provided that the High Court may entertain the appeal after the expiry of the said period of thirty days, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

15. The competent authority and the arbitrator appointed under section 10 while holding an inquiry, or as the case may be, arbitration proceedings, under this Act, shall have all powers of a civil court, while trying a suit, under the Code of Civil Procedure, 1908 in respect of the following matters, namely:—

Competent authority and arbitrator to have certain powers of civil courts.

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of any document;
- (c) reception of evidence on affidavits;
- (d) requisitioning any public record from any court or office; and
- (e) issuing commissions for examination of witnesses.

Power to obtain information.

16. The Government or the competent authority may, with a view to carrying out the purposes of section 3 or section 6, or section 9, or section 10, by order require any person to furnish to such officer, as may be specified in the order, such information in his possession as may be specified relating to any property which is requisitioned or acquired, or intended to be requisitioned or acquired, under this Act.

Power to enter and inspect.

17. The competent authority or any officer, empowered in this behalf by such authority by general or special order, may enter and inspect any property for the purposes of determining whether, and if so, in what manner an order under this Act should be made in relation to such property or with a view to securing compliance with an order made under this Act.

Service of notice and orders.

18. (1) Subject to the provisions of this section and any rules that may be made under this Act, every notice or order issued or made under this Act shall,—

- (a) in the case of any notice or order of a general nature or affecting a class of persons be published in the Official Gazette;
- (b) in the case of any notice or order affecting an individual, corporation or firm, be served in the manner provided for the service of summons in rule 2 of order XXIX or rule 3 of order XXX as the case may be, in the First Schedule of the Code of Civil Procedure, 1908; and
- (c) in the case of any notice or order affecting an individual person (not being a corporation or firm) be served on such person—
 - (i) by delivering or tendering it to that person; or
 - (ii) if it cannot be so delivered or tendered, by delivering or tendering it to any officer of such person or any adult male member of the family of such person, or by affixing a copy thereof on the outer door or on some conspicuous part on the premises in which that person is known to have last resided or carried on business or personally worked for gain or failing service by these means;
 - (iii) by post.

(2) Where the ownership of the property is in dispute or where the persons interested in the property are not readily traceable and the notice or order cannot be served without undue delay, the notice or order may be served by publishing

it in the Official Gazette, and where possible, by affixing a copy thereof on any conspicuous part of the property to which it relates.

19. No person interested in any property requisitioned or acquired under this Act, shall, without the previous written consent of the competent authority or except for the purpose of affecting repairs or complying with municipal requirement, wilfully disturb any convenience or easement attached to such property or remove, destroy or render un-serviceable anything provided for permanent use therewith or discontinue or cause to be discontinued any supply or service provided for the property.

Easement
not to be
disturbed.

20. (1) The Government may, by notification in the Official Gazette, direct that the powers exercisable by it or under this Act shall, in such circumstances and under such conditions, if any, as may be specified in the notification, be exercisable also by an officer subordinate to that Government.

Delegation
of powers.

(2) All notifications issued under sub-section (1) shall be laid, as soon as may be, before the Legislative Assembly.

21. (1) No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act or any order made thereunder.

Protection
of action
taken in
good faith.

(2) No suit or other legal proceeding shall lie against the Government or the competent authority for any damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of this Act or any order made thereunder.

22. Save as otherwise expressly provided in this Act no civil court shall have jurisdiction in respect of any matter which the competent authority or arbitrator is empowered by or under this Act to determine, and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.

Bar of jurisdic-
tion of
civil courts.

23. Whoever contravenes any provision of this Act, or any rule made thereunder, or any order made or direction given under this Act, or obstructs the lawful exercise of any power conferred by or under this Act, shall be punishable with fine which may extend to one thousand rupees, and when the offence is a continuing breach, further fine which may extend to fifty rupees for every day after the first during which the offence continues.

Penalty for
offences.

24. The competent authority, every arbitrator and every officer empowered by the Government or the competent authority, while exercising any power or performing any duty under this Act, shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

Certain per-
sons to be
public ser-
vants.

25. (1) The Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to
make rules.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

- (a) the procedure to be followed by the competent authority in making inquiries under section 3 or section 6;
- (b) the procedure to be followed in arbitration proceedings and appeals under this Act;
- (c) the principles to be followed in determining the amount of compensation, method of payment and rendition of such compensation;
- (d) the principles to be followed in apportioning the cost of proceedings before the arbitrator and on appeal under this Act;
- (e) the manner of service of notices and orders;
- (f) rent and its recovery; and
- (g) any other matter which has to be or may be, prescribed.

(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before the Legislative Assembly while it is in session, for a total period of not less than fourteen days which may be comprised in one session or in two or more successive sessions and if before the expiry of the session in which it is so laid or the sessions aforesaid, the Assembly makes any modification in the rule or decides that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Validation of certain requisitions and acquisitions.

26. (1) All immovable property which purports to have been requisitioned by the Government for any public purpose, under any law in force prior to the commencement of this Act, and which, immediately before such commencement, was used or occupied by the Government or by an officer or authority subordinate to that Government shall, as from the commencement of this Act, be deemed to be property duly requisitioned under section 3 of this Act, and every such requisition shall, notwithstanding any judgement, decree or order of any court, be deemed always to have been valid as if this Act had been in force on and from the date of the requisition and the requisition had been duly made by a competent authority under this Act, and all the provisions of this Act shall apply accordingly:

Provided that all agreements and awards for the payment of compensation in respect of any such property for any period of requisition before the commencement of this Act and in force immediately before such commencement shall be valid and shall be deemed always to have been valid and shall continue to be in force and shall apply to the payment of compensation in respect of that property for any period of requisition after such commencement.

(2) Every acquisition of immovable property purporting to have been made before the commencement of this Act by the Government for any public purpose, under any enactment for the time being in force in the State and which, immediately before such commencement was used or occupied by the Government or by an officer or authority subordinate to that Government shall, notwithstanding any defect in, or invalidity of, the enactment or order under which the acquisition was made, be deemed for all purposes to have been validly made as if the provisions of the said enactment or order had been included and enacted in this section and this section had been in force on and from the date of acquisition.

27. (1) Subject to any rules that may be made in this behalf by the Government any sum due by way of rent in respect of any requisitioned property which is in arrear may be recovered by the competent authority from the person liable to pay the same in the same manner as an arrear of land revenue.

Power to recover rent or damages in respect of requisitioned property as arrears of land revenue.

(2) Where any person is in unauthorised occupation of any requisitioned property, the competent authority may, in the prescribed manner, assess such damages on account of the use and occupation of the said property as it thinks fit and may, by notice served by post or in such other manner, as may be prescribed by rules made in this behalf, order that person to pay the damages within such time, as may be specified in the notice.

(3) If any person refuses or fails to pay the damages within the time specified in the notice under sub-section (2), the damages may be recovered in the same manner as an arrear of land revenue.

28. (1) The East Punjab Requisitioning of Immovable Property (Temporary Powers) Act, 1947, as in force in areas comprised in Himachal Pradesh immediately before the 1st November, 1966, is hereby repealed.

Repeal and savings.

(2) For the removal of doubts, it is hereby declared that any property which immediately before such repeal was subject to requisition under the provisions of the said Act shall, on the commencement of this Act, be deemed to be property requisitioned under section 3 of this Act, and all the provisions of this Act shall apply accordingly:

Provided that—

(a) all agreements and awards for the payment of compensation in respect of any such property for any period of requisition before the commencement of this Act and in force immediately before such commencement, shall continue to be in force and shall apply to the payment of compensation in respect of that property for any period of requisition after such commencement;

(b) anything done or any action taken (including any orders, notifications or rules made or issued) in exercise of the powers conferred by or under the said Act shall, in so far as it is not inconsistent with the provisions of this Act, be deemed to have been

done or taken in exercise of the powers conferred by or under this Act as if this Act was in force on the day on which such thing was done or action was taken.

(3) The Himachal Pradesh Requisitioning and Acquisition of Immovable Property Ordinance, 1972 is hereby repealed.

Notwithstanding such repeal, anything done or any action taken under the aforesaid Ordinance, shall be deemed to have been done or taken under this Act, as if this Act, had commenced on the 22nd November, 1972.